

IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

_____ day _____, 20____

PRESENT: Supervisors

ABSENT:

RESOLUTION NO. _____

RESOLUTION AFFIRMING THE DECISION OF THE
HEARING OFFICER AND CONDITIONALLY APPROVING
THE APPLICATION OF MORRO COAST AUDUBON SOCIETY
FOR MINOR USE PERMIT/COASTAL DEVELOPMENT PERMIT
DRC2011-00013

The following resolution is now offered and read:

WHEREAS, on March 15, 2013, the Zoning Administrator of the County of San Luis Obispo (hereinafter referred to as the "Hearing Officer") duly considered and conditionally approved the application of Morro Coast Audubon Society for Minor Use Permit/Coastal Development Permit DRC2011-00013; and

WHEREAS, Save the Park has appealed the Hearing Officer's decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the Board of Supervisors) pursuant to the applicable provisions of Title 23 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on June 4, 2013, and determination and decision was made on June 4, 2013; and

Attachment 1

WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written protests, objections, and evidence, which were made, presented, or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said appeal; and

WHEREAS, the Board of Supervisors has duly considered the appeal and finds that the appeal should be denied and the decision of the Hearing Officer should be affirmed and that the application should be approved subject to the findings and conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth hereinabove are true, correct and valid.
2. That the Board of Supervisors makes all of the findings of fact and determinations set forth in revised Exhibit A attached hereto and incorporated by reference herein as though set forth in full.
3. That the Mitigated Negative Declaration prepared for this project is hereby approved as complete and adequate and as having been prepared in accordance with the provisions of the California Environmental Quality Act.
4. That the appeal filed by Save the Park is hereby denied and the decision of the Hearing Officer is affirmed and that the application of Morro Coast Audubon Society for Minor Use Permit/Coastal Development Permit DRC2011-00013 is hereby approved subject to the conditions of approval set forth in Exhibit B attached hereto and incorporated by reference herein as though set forth in full.

Attachment 1

Upon motion of Supervisor _____, seconded by Supervisor
_____, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing resolution is hereby adopted.

Chairperson of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By: 
Deputy County Counsel

Dated: May 9, 2013

Attachment 1

STATE OF CALIFORNIA,)
) ss.
County of San Luis Obispo,)

I, _____, County Clerk and ex-officio Clerk of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of said Board of Supervisors, affixed this day of _____, 20__.

County Clerk and Ex-Officio Clerk of the Board
of Supervisors

(SEAL)

By _____ Deputy Clerk.

EXHIBIT A - FINDINGS

Environmental Determination

- A. The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on December 27, 2012 for this project. Mitigation measures are proposed to address aesthetics, biological resources, public services/utilities and transportation/circulation and are included as conditions of approval.

Comments were received on the Negative Declaration during the comment period. The comments were responded to in this staff report. The Negative Declaration adequately addresses the project's potential impacts and no changes to the Negative Declaration are necessary in response to the received comments.

Minor Use Permit

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 23 of the County Code.
- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because habitat restoration and trail construction does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the project area is designated open space.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project is located on Ramona Ave., a local road constructed to a level able to handle any additional traffic associated with the project.
- G. Morro Coast Audubon Society's restoration activities as defined as hand removal of non-natives and replacement with native plants is not considered a land use and therefore not subject to Section 23.03.042.

Attachment 1

Coastal Access

- H. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because the project creates additional access to coastal waters and recreation areas.

Sensitive Resource Area

- I. The development will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features through the site design, because the project is primarily habitat conservation.
- J. Natural features and topography have been considered in the design and siting of all proposed physical improvements because trails have been routed to create the least amount of impact on the natural environment.
- K. The proposed clearing of topsoil, trees, is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource, because all work will be accompanied by habitat restoration.
- L. The soil and subsoil conditions are suitable for any proposed excavation and site preparation and drainage improvements have been designed to prevent soil erosion, and sedimentation of streams through undue surface runoff.

Environmentally Sensitive Habitat Areas

- M. There will be no significant negative impact on the identified sensitive habitat and the proposed public access improvements will be consistent with the biological continuance of the habitat.
- N. The proposed public access improvements will not significantly disrupt the habitat.

Archeological Sensitive Area

- O. The site design and development incorporate adequate measures to ensure that archeological resources will be acceptably and adequately protected because the project design routes trails and structures away from sensitive areas.
- P. The site design and development cannot be feasibly changed to avoid intrusion into or disturbance of archaeological resources. Construction will use appropriate methods to protect the integrity of the site. Such methods include a monitoring plan for all construction activities

EXHIBIT B - CONDITIONS OF APPROVAL

Approved Development

1. This approval authorizes implementation of public access improvements at East Sweet Springs and connecting the site (with trails) to the Central Sweet Springs Nature Preserve. The project includes an accessible trail and boardwalk system including interpretive elements guiding visitors to a prominent lookout point along the shoreline of the estuary (as shown on the approved site plan).

Conditions required to be completed at the time of a Notice to Proceed

Site Development

2. At the time of application for a **Notice to Proceed**, plans submitted shall show all development consistent with the approved site plan and elevations.
3. **At the time of application for a Notice to Proceed**, the applicant shall provide details on any proposed exterior lighting, if applicable. The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp nor the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.

Fire Safety

4. **At the time of application a Notice to Proceed**, all plans submitted to the Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code.

Drainage & Flood Hazard

5. The applicant shall submit evidence to the Department of Public Works that all structures comply with County flood hazard construction standards, Sections 23.07.060-066.

Conditions to be completed prior to issuance of a Notice to Proceed

Archaeology

6. **CR-1:** The Applicant shall submit a monitoring plan, prepared by a County-approved archaeologist, for review and approval by the County Department of Planning and Building. The intent of this Plan is to monitor all earth-disturbing activities in areas identified as potentially sensitive for cultural resources, per the approved monitoring plan. The monitoring plan shall include at a minimum:
 - a. List of personnel involved in the monitoring activities;
 - b. Description of how the monitoring shall occur;
 - c. Description of frequency of monitoring (e.g., full-time, part time, spot checking);
 - d. Description of what resources are expected to be encountered;
 - e. Description of circumstances that would result in the halting of work at the project site (e.g., What is considered "significant" archaeological resources?);
 - f. Description of procedures for halting work on the site and notification procedures; and
 - g. Description of monitoring reporting procedures.

Attachment 1

7. The applicant shall submit an Incidental Take Permit or other approval from the US Fish and Wildlife Service.

Conditions to be completed during project construction

Biological Resources

8. **BR-1: All ground disturbance activities** will be restricted to the dry season (June 1 through October 31) when Morro shoulderband snails (MSS) are typically inactive and less likely to move into the construction area.
9. **BR-2:** Preconstruction surveys for Morro shoulderband snail shall be conducted **prior to any ground disturbance** in those areas to be affected by grading and other construction-related activities.
10. **BR-3: Prior to site disturbance**, exclusion fencing shall be installed under the direction of a qualified biologist or a US Fish and Wildlife Service authorized Morro shoulderband snail monitor to ensure that areas occupied or potentially occupied by Morro shoulderband snail are not impacted. The fence will remain in place throughout the duration of the project.
11. **BR-4:** A qualified biologist or a US Fish and Wildlife Service authorized Morro shoulderband snail monitor shall monitor construction activities to ensure that Morro shoulderband snail have not moved into the construction site during mist conditions such as heavy dew, fog, rain., In the event such conditions occur, the biologist shall conduct another pre-activity survey prior to resumption of work. The service will be contacted immediately if Morro shoulderband snails are located in the construction areas during such surveys. Construction shall not be resumed until all Morro shoulderband snail issues have been resolved.
12. **BR-5: Prior to site disturbance**, an environmental awareness training shall be conducted for all construction workers at the site. The Environmental Awareness training shall be conducted by a qualified biologist or a US Fish and Wildlife Services authorized Morro shoulderband snail monitor.

Archaeology

13. **CR-2:** During all ground disturbing activities, the applicant shall retain a qualified archaeologist (approved by the Environmental Coordinator) to monitor all earth disturbing activities, per the approved monitoring plan. If any significant archaeological resources or human remains are found during, work shall stop within the immediate vicinity (precise area to be determined by the archaeologist in the field) of the resource until such time as the resource can be evaluated by an archaeologist and any other appropriate individuals. The applicant shall implement the mitigation as required by the environmental coordinator.
14. **CR-4: Prior to ground disturbance activities**, all labor crews shall be trained on the identification of archaeological remains and instructed in the proper steps to take in the

Attachment 1

event archaeological remains are exposed. The training shall be conducted by a qualified archaeologist.

Conditions to be completed prior to establishment of the use

15. **Prior to establishment of the use**, whichever occurs first, the applicant shall obtain final inspection and approval from CDF of all required fire/life safety measures.
16. **Prior to establishment of the use**, the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.

Archaeology Monitoring – Completion Report

17. **CR-3: Upon completion of all monitoring/mitigation activities, and prior to establishment of the use**, the consulting archaeologist shall submit a report to the Environmental Coordinator summarizing all monitoring/mitigation activities and confirming that all recommended mitigation measures have been met. If the Phase III program is not complete by the time of final inspection or occupancy will occur, the applicant shall provide to the Environmental Coordinator, proof of obligation to complete the required analysis.

On-going conditions of approval (valid for the life of the project)

18. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
19. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Land Use Ordinance.
20. The applicant shall as a condition of approval of this minor use permit/coastal development permit defend, at his sole expense, any action brought against the County of San Luis Obispo, its present or former officers, agents, or employees, by a third party challenging either its decision to approve this minor use permit/coastal development or the manner in which the County is interpreting or enforcing the conditions of this minor use permit/coastal development permit, or any other action by a third party relating to approval or implementation of this minor use permit/coastal development permit. The applicant shall reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action, but such participation shall not relieve the applicant of his obligation under this condition.